



U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

November 13, 2020

BY ECF

The Honorable Paul G. Gardephe
United States District Judge
Southern District of New York
40 Foley Square
New York, New York 10007

**Re: *United States v. Michael Avenatti,*
 S1 19 Cr. 373 (PGG)**

Dear Judge Gardephe:

The Government respectfully submits this letter in opposition to defendant Michael Avenatti's motion for a fourth, 60-day adjournment of his sentencing (Dkt. No. 306).

The defendant was convicted, following a jury trial, of extortion, transmitting interstate communications with intent to extort, and honest services wire fraud on February 14, 2020. At that time, sentencing was set for June 17, 2020. (Dkt. No. 266.) On May 18, 2020, the defendant moved, with consent of the Government and in light of the COVID-19 pandemic, for a 60-day adjournment of his sentencing (Dkt. No. 296), which the Court granted, setting sentencing for August 19, 2020 (Dkt. No. 297). On July 15, 2020, the defendant moved for a second adjournment in light of the pandemic, and the Government took no position. (Dkt. No. 298.) The Court granted the defendant's motion, and set sentencing for October 7, 2020. (Dkt. No. 300.) On September 7, 2020, the defendant moved for a third adjournment, without objection from the Government and again in light of the pandemic. (Dkt. No. 306.) The Court granted that motion, and adjourned sentencing to December 7, 2020. (Dkt. No. 304.)

The defendant now seeks a fourth, 60-day adjournment. The Government opposes this request. The Government has communicated with counsel for each victim, and has learned that both wish for the defendant to be sentenced without further delay. *See* 18 U.S.C. § 3771. The Government recognizes and appreciates the logistical challenges posed by the COVID-19 pandemic. However, the Court has put in place a rigorous protocol to ensure the safety of visitors to the courthouse. Criminal jury trials have resumed in this District pursuant to that protocol, and a number of defendants have been sentenced in person. Considering all of the facts and circumstances of this case and, in particular, the interests of the victims and the public in finality, *cf. United States v. Gambino*, 59 F.3d 353, 360 (2d Cir. 1995) ("the public is the loser when a

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criminal trial is not prosecuted expeditiously”), the Government submits that sentencing should proceed in December 2020.¹

Respectfully submitted,

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cc: (by ECF)

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¹ As defense counsel notes their letter, the Government does not object to the defendant’s request for an adjournment of sentencing from December 9, 2020 to December 21 or 22, 2020. Such a modest adjournment would permit additional time to work out any logistical matters, although the Government does not believe that more time is necessary. Additionally, the Government would consider a request to proceed remotely, though the defendant has not made such a request.